

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

DARREN GILBERT,

Plaintiff,

v.

DOCTOR'S CHOICE MODESTO LLC, et al.,

Defendants.

Case No. 1:21-cv-00690-JLT-SAB

ORDER EXTENDING TIME TO
COMPLETE SERVICE OR DISMISS AND
REQUIRING SUBMISSION OF
SCHEDULING OR STATUS REPORT

(ECF Nos. 123, 125)

60 DAY DEADLINE

On April 11, 2023, the then assigned District Judge denied Defendants' motion to dismiss the third amended complaint, and on April 21, 2023, issued an order declining to exercise supplemental jurisdiction over Plaintiff's state law claims. (ECF Nos. 118, 119.) As indicated in the April 21, 2023, order, "[w]ith the filing of the TAC, new parties have appeared, which will necessitate new discovery and a modified scheduling order." (ECF No. 119 at 2.) On May 3, 2023, Plaintiff filed a request to stay this action and refer the action to the Court's Voluntary Dispute Resolution Program ("VDRP"). (ECF No. 122.) On May 4, 2023, the Court denied the request to refer the matter to VDRP given the parties had not agreed to do so, and ordered Plaintiff to meet and confer with the Defendants to the extent possible, and to submit a joint scheduling report. (ECF No. 123.)

On May 25, 2023, Plaintiff filed a status report indicating that Plaintiff has attempted to meet and confer with Defendants pursuant but has been unable to reach any of the pro se

Defendants at the telephone numbers of record listed on the documents filed by Defendants Amar Kumar (“Kumar”), Shaibi Abdqulqawi (“Abdulqawi”) and Arif Faisal (“Faisal”). (ECF No. 125.) Plaintiff also proffers he has been unable to serve Defendants Nindi2039 LLC and Nindiseventeen LTD Liability Co., as both companies listed Amar Kumar as registered agent and the process server was unable to gain entry to Kumar’s address of record which was reportedly behind a locked gate, while phone calls to the telephone number posted at the gate went unanswered. Plaintiff also proffers that he has learned that Nindi2039 LLC and Nindiseventeen LTD Liability Co. have changed their names, to VRE2039 LLC and VRE1733 LLC respectively, and those companies (under the new names) have been dissolved according to the California Secretary of State Business Search database., however, available property records still reflect that the legal owners of the properties are Nindi2039 LLC and Nindiseventeen LTD Liability Co., despite those companies no longer existing under those names or their new names.

Rule 4(m) provides that “If a defendant is not served within 90 days after the complaint is filed, the court—on motion or on its own after notice to the plaintiff—must dismiss the action without prejudice against that defendant or order that service be made within a specified time.” Fed. R. Civ. P. 4(m). “But if the plaintiff shows good cause for the failure, the court must extend the time for service for an appropriate period.” Id.

Accordingly, IT IS HEREBY ORDERED that **within sixty (60) days of entry of this order:**

1. Plaintiff shall complete service of the TAC on any unserved Defendants, or otherwise dismiss any unserved Defendants in this action;
2. The parties shall submit either a joint scheduling report with dates and deadlines agreed to by those parties Plaintiff is able to meet and confer with, or a status report regarding the readiness of this matter to proceed into scheduling; and

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- 1 3. The failure to comply with this order will result in the imposition of sanctions,
2 including up to recommendation of dismissal of this action.

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4 IT IS SO ORDERED.

5 Dated: May 30, 2023


UNITED STATES MAGISTRATE JUDGE